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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT SEATTLE  
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12                  TRAVERSE THERAPY SERVICES,  
13                  PLLC,

14                  Plaintiff,

15                  v.

16                  SADLER-BRIDGES WELLNESS  
17                  GROUP, PLLC, JAMES BOULDING-  
18                  BRIDGES, HALEY CAMPBELL,

19                  Defendants.

20                  CASE NO. C23-1239 MJP

21                  ORDER GRANTING MOTIONS TO  
22                  STRIKE

23                  This matter comes before the Court on Plaintiff's Motions to Strike Defendants' Motion  
24                  for Summary Judgment and a late-filed declaration. (Dkt. Nos. 56 & 61.) Having reviewed the  
25                  Motions, Defendant's Oppositions (Dkt. Nos. 57, 62), the Reply (Dkt. No. 59), and all  
26                  supporting materials, the Court GRANTS both Motions and STRIKES Defendants' Motion for  
27                  Summary Judgment and supporting declarations.

28                  In its October 12, 2023 Scheduling Order, the Court set a February 5, 2024 deadline for  
29                  the filing of dispositive motions. (Dkt. No. 14.) After Plaintiff filed its Motion for Summary  
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1 Judgment on February 5, 2024, Defendants filed their Motion for Summary Judgment on  
2 February 8, 2024, three days late. (Dkt. No. 51.) Defendants also filed counsel's declaration in  
3 support of the Motion fourteen days after the filing deadline. Plaintiff asks the Court to enforce  
4 the Scheduling Order and strike the late-filed Motion for Summary Judgment and declaration.  
5 (Dkt. No. 56.)

6 Counsel for Defendants provides limited grounds to accept the late-filed materials.

7 Counsel states that he did not commence to work on the Motion for Summary Judgment until  
8 after February 1, 2024, when the Court denied Defendants' Motion to Dismiss that noted on  
9 November 24, 2023. (Declaration of Howard Morrill ¶ 4; Dkt. Nos. 16, 45.) He avers that he  
10 "would not typically, if ever, spend . . . a client's resources on a dispositive motion while they  
11 had a dispositive motion already pending." (Morrill Decl. ¶ 3.) But when he received the Court's  
12 Order on February 1, 2024, he "almost immediately began work on the Defendant's Summary  
13 Judgment Motion now on file" which took "12+ hour days." (Id. ¶ 4.) Counsel does not state  
14 precisely when he started work on the motion, and how much time he put in each day after  
15 February 1, 2024. Counsel also admits that he "fail[ed] to see and realize that the deadline for  
16 filing the current motion was not the typical Thursday four Fridays before [sic]."(Id.) Counsel  
17 claims that had he realized the deadline was February 5, he "might have managed to file some  
18 undoubtedly inferior effort by February 5, 2024, while sleeping almost not at all."(Id.) And  
19 despite having failed to file a motion asking the Court to accept the late-filed motion, counsel  
20 asks the Court to grant relief from the deadline "[u]nder the circumstances and timing of events."(Id.)  
21 As to the late-filed declaration, Defendants' counsel admits "to his considerable shock" that  
22 he failed to file his own declaration, and provides no specific reason for the oversight. (Dkt. No.  
23 62.)  
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1       Based on the record before it, the Court GRANTS the Motion to Strike. Defendants'  
2 counsel fails to provide any valid reason why the Court should accept the late-filed Motion and  
3 declaration. Counsel appears not to have paid any attention to the Court's Scheduling Order,  
4 which quite clearly stated that dispositive motions were due by February 5, 2024. Counsel's  
5 explanation for his failure to comply with the Scheduling Order evidences no diligence or some  
6 plausible, excusable neglect. Rather, it appears that counsel had some notion about a "typical"  
7 schedule, but he does not explain why he failed to consult the actual schedule in this case. (See  
8 Morrill Decl. ¶ 4.) No excuse has been provided and there is no evidence of diligence. The Court  
9 is aware that counsel did not wish to incur fees by working on a motion for summary judgment  
10 while Defendants' Motion to Dismiss was pending. That might have supported a request for an  
11 extension of the deadline had counsel been diligent and proactively requested the Court for an  
12 extension while the Motion to Dismiss was pending. But counsel essentially admits he was  
13 unaware of the summary judgment deadline and failed to seek any extension of the deadline to  
14 accommodate his desire to avoid work on a summary judgment motion while the Motion to  
15 Dismiss was pending. In addition, counsel failed to ask for relief from the dispositive motion  
16 deadline when he filed the late Motion for Summary Judgment—leaving the request buried in a  
17 declaration in opposition to Plaintiff's Motion to Strike. The Court finds no evidence of diligence  
18 or excusable neglect. The Court therefore rejects the untimely and untenable request to accept  
19 the late-filed Motion for Summary Judgment and declaration. This record shows no diligence or  
20 excusable neglect. The Court GRANTS the Motions to Strike and STRIKES Defendants' Motion  
21 for Summary Judgment and all supporting declarations, all of which were untimely filed.

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The clerk is ordered to provide copies of this order to all counsel.

Dated February 26, 2024.

Wesley Pekom

Marsha J. Pechman  
United States Senior District Judge